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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,369	08/27/2003	Yasumi Matsuno	P23835	3704

7055 7590 09/10/2007
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EXAMINER	
YOO, JASSON H	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/648,369

Applicant(s)

MATSUNO ET AL.

Examiner

Jasson H. Yoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/2/07 has been entered.

Claim Objections

Claims 24, 35 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is not clear how determining the instruction to advance the video game against the determined rule further limit the limitation of determining whether the determined rule is violated based on the instruction to advance the video game.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 23, 39 and 41 recite the limitation of "foothold movement". Applicant specification does not support this limitation. For purposes of this examination, it will be assumed that foothold movements are displayed locations a virtual character can move to. Claims 24-38, 40, and 42 incorporate the limitation by dependency of the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-32, 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over NBA Live 96 game manual for Sega Genesis System (1995) (hereinafter "NBA Live").

Claims 23, 24. NBA Live discloses a video game apparatus (page 2 discloses the Sega Genesis Controller, and page 5 discloses the Sega Genesis console to play game stored in the game cartridge), comprising:

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a foothold movement instruction input section that inputs an instruction to move a player character (D-Pad allows a player character to move, pages 2-3) between footholds on a map (map of a basketball court as shown in pages, 17, 19, 21, 22)

where a plurality of footholds are arranged (players character can move in a plurality of location in the basketball court);

a foothold movement section that moves the player character between footholds in accordance with the instruction to move the player character between footholds (move player instruction page 2);

a time lapse section that updates a time unit of a virtual concept in the video game when the player character is moved between footholds (The player character can move throughout the length of the game play. The length of the game play can be set by setting the length of the quarter as shown in page 7. This length is updated during the beginning of the quarter. Furthermore, there are time lapse during the game based on the rules, page 8. Some rules are: "3 in the key", "shot clock", "inbound clock", "half court clock", that are updated based on the characters movement between different locations of the court.);

a rule storage that stores a rule to be set in accordance with the updated time unit independent of the foothold to which the player character is moved (The rules are stored in the game console's memory, if the rule are set to "ON", page 8. The storage is independent of the character movement, because the rules are established at the rule menu, independent of the player character movement.);

a rule judge that determines, with reference to the stored rule (The game program determines if the rules are applicable if they are set "ON" when the game begins, page 8. I.e. Rules such as out of bounds are set at the beginning of the quarter. Rule for such 3 in the key or backcourt are applicable when the character has possession of the ball, page 15.) and in accordance with the updated time unit (All the rules are applicable when the timer for the quarter is running. A 3 second timer is updated for the "3 in the key" rule. When the player has possession of the ball, the 24 second shot clock is updated.), a rule applicable when the video game advances

an instruction input device that inputs an instruction to advance the video game (the player input instruction to move the character throughout the game, page 22);

a rule violation determiner that determines whether the determined rule is violated based on the instruction to advance the video game (The game program determines if the rules listed on page 8 is violated);

a penalty processor that imposes a predetermined penalty when the determined rule is violated (A penalty is imposed on to the player if the player's character violates a rule. It is implied that penalties known the game of basketball are imposed when the rules listed on page 8 are violated. For example, the player will lose possession of the ball, page 15).

NBA Live discloses a game with rules. The player controllers a character to score in one end of the map. The player is also required abide by the rules within the map during the game play. NBA discloses the claimed invention as discussed above, but fails to specifically teach the map is a world map. Nevertheless displaying a world map

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instead of a court map is an aesthetic design change. Aesthetic design changes that do not impact the function of system cannot be relied on to distinguish the claimed subject matter over prior art. Changing the map of the game allows the game to have a different theme. For example, a map of a grassy field may represent a football theme game or a soccer theme game, where the player score points at one end of the field, and required to abide by the rules. A map of world may represent a war theme game where points are achieved by attacking the base at one end of the map and by abiding by the rules. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify NBA Live and incorporate a world map in order to provide a game with a world map theme.

NBA Live 96 further discloses the following:

Claim 25. The video game apparatus according to claim 23, further comprising:
an instruction executer that executes processing in accordance with the instruction to advance the video game (gaming apparatus Sega Genesis processes the game instruction stored in game cartridge),

wherein the rule violation determiner determines whether a result of the processing executed in accordance with the instruction to advance the video game is against the determined rule (see rejection for claim 23 above).

Claim 26. The video game apparatus according to claim 23,

wherein the rule applicable when the video game advances is divided into multiple groups (each rule listed in page 8 can be considered to be a different group), and

wherein the rule judge determines a rule that belongs to a group in accordance with the updated time unit as the rule applicable when the video game advances (the game program determines a rule group belong to the active group according with the updated time unit when the rule is set "on" as described in page 8, and when the rules are effective during the play. I.e., "3 in the key" is applicable when the "3 in the key" is set "on", and the offense player has the ball within the free throw lane.).

Claim 27. The video game apparatus according to claim 23, wherein a number of rules applicable when the video game advances is at least two, and wherein the rule judge increases the number of rules applicable when the video game advances (When the player has the ball, the out of bound and backcourt rules are in effective. Throughout the game play, if the player's character advances to the free throw lane, the "3 in the key" rule is also in effect.).

Claim 28. The video game apparatus according to claim 23,
wherein the instruction input device inputs an instruction to operate a player character (page 2),
wherein the video game apparatus further comprises a characteristic value storage that stores a characteristic value of the player character that varies as the video

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game progresses (As the game progress, the player character can have the characteristic of "possession of the ball".), and wherein the penalty processor varies the stored characteristic value of the player character (Player can lose possession of the ball as a penalty.).

Claim 29. The video game apparatus according to claim 28, wherein multiple player characters can be controlled from the instruction input device (The switch players allow the player to controller multiple player characters, page 3.),

wherein the rule violation determiner judges a player character that violates the determined rule based on the instruction to operate the player character, and wherein the penalty processor imposes the predetermined penalty on the player character that violates the rule (see rejection for claim 23).

Claim 30. The video game apparatus according to claim 23, wherein the player character can execute multiple types of operations (player can operate offense and defense operations, pages 2-3), wherein the instruction input device inputs a type of operation to be executed by the player character, and wherein the penalty processor limits the types of operations that can be executed by the player character to impose the penalty (The lost possession of the ball penalty prevents the player to perform "Offense-with the ball" operations, page 2).

Claim 31. The video game apparatus according to claim 30, wherein multiple player characters can be controlled from the instruction input device, wherein the rule violation determiner judges a player character that violates the determined rule based on the instruction to advance the video game, and wherein the penalty processor imposes the predetermined penalty on the player character that violates the rule (If the player character with the ball violates a rule, the player character loses possession of the ball, page 8).

Claim 32. The video game apparatus according to claim 23, further comprising: an item storage that stores items given to the player as the video game progresses (As the game progresses to and offense play, the player has possession of the ball. The ball is stored by the player character's hand.), and wherein the penalty processor deletes a predetermined item stored in the item storage to impose the penalty (the player character loses possession of the ball).

Claim 34. A video game apparatus according to claim 23, further comprising: a violation history storage that stores a history of determined violations, wherein the penalty processor imposes the predetermined penalty based on the stored history of violations (Game data such as violation is stored in the game system's memory. The penalty occur right after the violation is performed).

Claims 35-42. See rejections above.

Response to Arguments

Applicant's arguments with respect to claims 23-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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